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Technology Center 2100

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In re Application of: Challener et al.)
Application No. 09/262,123)
Attorney Docket No. RP9-98-089) **DECISION ON PETITION TO**
Filed: March 3, 1999) **WITHDRAW HOLDING OF**
For: DATA PROCESSING SYSTEM AND) **ABANDONMENT UNDER 37 CFR**
METHOD FOR MAINTAINING SECURE) **§1.181**
USER PRIVATE KEYS IN NON-SECURE)
STORAGE)

This is a decision on the petition, filed originally on May 12, 2003 (as evidenced by a post card receipt stamp) and subsequently refiled on August 18, 2004 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. This application was held abandoned for failure to respond to the non-final Office action mailed October 16, 2002 (Paper No. 10). A Notice of Abandonment was mailed on April 22, 2003 (Paper No. 12).

A review of the application file shows the Office action mailed October 16, 2002 was, in fact, returned to the USPTO. There is no evidence the Office followed the procedures in MPEP §707.13 regarding returned Office actions. In addition, the practitioner has provided statements indicating the Office was on notice to resend the correspondence but did not do so. While the practitioner's statements are construed to mean that the Office was not promptly notified of a change of address in compliance with the guidelines set forth in MPEP § 601.03, the fact remains that the Office did not "use every reasonable means to ascertain the correct address and forward the action again" (see MPEP §707.13).

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff. The non-final Office action will be remailed with the three-month shortened statutory period for reply restarted to run from the date of the remailing.

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